

Recent Georgia Property Tax Cases

CAVEAT
May 17, 2021

Ruth Cohen
Legal Affairs & Tax Policy
Specialized Tax Group
Georgia Department of Revenue





Rice, et al. v. Fulton County, Georgia et al.

- › Dec. 15, 2020, decision of Court of Appeals of Georgia.
- › Class action - Fulton County homeowners who purchased their homes in 2015 and 2016.
- › Seeking refund of ad valorem property taxes under O.C.G.A. § 48-5-380.



Rice, et al. v. Fulton County, Georgia et al.

› The Taxpayers' Complaint:

- Fulton County Board of Tax Assessors conducted **illegal assessments** of their properties.
- The Board **singled out recently sold properties for reappraisal** at higher sales price.
- Left assessed **values of unsold properties undisturbed.**



Rice, et al. v. Fulton County, Georgia et al.

› **The Lower Court Decided:**

- Taxpayers **failed to state a valid tax refund claim** under O.C.G.A. § 48-5-380.
- Instead should have pursued a **tax appeal** under a different statute.

› **Taxpayers appealed!**



Rice, et al. v. Fulton County, Georgia et al.

- › **Taxpayers' Argument:**
- › For tax years 2016 and 2017, the Board
 - did not follow its customary appraisal methodology.
 - instead increased the assessed value of recently sold properties to the sales prices from 2015 or 2016.
 - did not reassess values of comparable residential properties that had not been sold.
- › Therefore, taxpayers required to pay higher property taxes than owners of similarly situated residential properties that did not sell in 2015 or 2016.



Rice, et al. v. Fulton County, Georgia et al.

› **Violation of**

- (1) Uniformity Clause of the Georgia Constitution.
- (2) The Equal Protection Clause of the 14th Amendment to the U.S. Constitution.
- (3) The equalization requirement of O.C.G.A. § 48-5-306(a).

› **Defendants' Argument:**

- Taxpayers did not have a valid refund claim under § 48-5-380 but were limited to the appeal process of § 48-5-311.



Rice, et al. v. Fulton County, Georgia et al.

› **O.C.G.A. § 48-5-311**

- Lays out multiple administrative paths for appealing the BOA's original assessment – after first appealing to the BOA itself.
- If taxpayer dissatisfied with that result, 3 options- depending on the property and the issues appealed:

(1) appeal to the county board of equalization under § 48-5-311(e)(2)(C);

(2) appeal to an arbitrator under § 48-5-311(f); or

(3) appeal to a hearing officer under § 48-5-311(e.1).

-THEN taxpayer or BOA may appeal to superior court under 48-5-311(g).



Rice, et al. v. Fulton County, Georgia et al.

› **O.C.G.A. § 48-5-380**

› § 48-5-380(a)(1) provides:

(a) As provided in this Code section, each county and municipality shall refund to taxpayers any and all taxes and license fees:

(1) Which are determined to have been erroneously or illegally assessed and collected from the taxpayers under the laws of this state or under the resolutions or ordinances of any county or municipality[.]

Under subsections (b) and (c), the taxpayer may either file a claim for refund with the governing authority of the county or municipality within the prescribed time or proceed directly to filing suit.



Rice, et al. v. Fulton County, Georgia et al.

- › **Trial Court sided with Defendants.**
- › **On appeal . . . Georgia Appeals Court said:**
 - *“Taxpayers generally have two avenues for challenging an improper tax assessment: (1) the appeal process in OCGA § 48-5-311, and (2) the refund procedure in OCGA § 48-5-380. These distinct remedies, however, serve different purposes. An appeal under OCGA § 48-5-311 provides the most expeditious resolution of a taxpayer's dissatisfaction with an assessment, preferably before taxes are paid. In contrast, an OCGA § 48-5-380 refund action . . . [provides a] procedure to protect taxpayers from later-discovered defects in the assessment process which have resulted in taxes being erroneously or illegally assessed and collected.”*



Rice, et al. v. Fulton County, Georgia et al.

- › **Georgia Supreme Court has said:**
- › *“Although a taxpayer may raise issues of valuation, uniformity, and equalization under both statutes, . . . the taxpayer should assert any error in the assessment of the real property in an appeal proceeding under § 48-5-311 whereas the refund action under § 48-5-380 is reserved for claims of factual or legal error that have resulted in erroneous or illegal taxation.”*

Nat. Health Network v. Fulton County, 270 Ga. 724, 726 (1999).



Rice, et al. v. Fulton County, Georgia et al.

Appeal Process of § 48-5-311	Refund Procedure of § 48-5-380
Can raise issues of valuation, uniformity, and equalization	Can raise issues of valuation, uniformity, and equalization
Can assert any error in the assessment of the real property	Claims of factual or legal error that have resulted in erroneous or illegal taxation
EXAMPLES:	EXAMPLES:
- "Mere dissatisfaction" with an assessment	- Claim that matters of fact in the record are inaccurate
- Claim that assessors did not take into account matters taxpayer believes they should have . . . such as different comparable sales	- Illegal procedures were used in making the assessment
	- Taxing authority assessed and collected taxes in violation of federal or state law



Rice, et al. v. Fulton County, Georgia et al.

› Appeals Court of Georgia Decision:

- Taxpayers “did not simply express dissatisfaction with the assessed value of their properties.”
- They did not “merely allege that the Board, using correct procedures, failed to take into account other factors that should have been considered as part of the assessments.”
- Allegation of “sales chasing.”
- **Reversed decision of the lower court.**



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › March 13, 2020, decision of Court of Appeals of Georgia.
- › Appeal from the Fayette County Board of Tax Assessors.
- › Challenging the superior court's finding that the freeport exemption under O.C.G.A. § 48-5-48.2(c)(3) applies to certain property of WalMart, excluding it from taxation.



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

› **The Freeport Exemption**

–An “exemption from ad valorem taxation of certain tangible personal property inventory” O.C.G.A. § 48-5-48.1(a).

› **Background**

-WalMart filed a business personal property tax return for two categories of personal property:

-inventory, valued by WalMart at \$3,244,461, and

-freeport inventory, valued by WalMart at \$61,644,758.

-WalMart also submitted an application for a freeport exemption from ad valorem tax for the freeport inventory.



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

› **The Property at Issue:**

- Self checkout component parts that WalMart agreed to purchase from NCR Corporation.
- NCR gathered the parts at its facility in Fayette County and held them for up to 90 days before shipping them to **out-of-state WalMarts** for installation.

By contrast...

-the inventory WalMart agreed was subject to taxation was also self-checkout component parts, but that was shipped from NCR's warehouse for installation in **WalMarts within Georgia**.



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

› **Procedural History**

- › -BOA denied freeport exemption application.
- › -WalMart appealed the denial to the BOE.
- › -BOE affirmed BOA's denial.
- › -WalMart appealed BOE's decision to the superior court.
- › -Both parties filed motions for summary judgment.
- › -Superior court granted WalMart's motion
 - “the personal property in question fits the definitions of ‘inventory’ and ‘finished goods’ and[] qualifies for the [Category 3] [f]reeport [e]xemption.”



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › **Did the property meet the definition of “inventory of finished goods” in order to qualify for the freeport exemption?**
- › -Category 3 freeport exemption exempts
- › inventory of finished goods which, on January 1, are stored in a warehouse, dock, or wharf, whether public or private, which are destined for shipment to a final destination outside this [S]tate and inventory of finished goods which are shipped into this [S]tate from outside this [S]tate and stored for transshipment to a final destination outside this [S]tate, including foreign merchandise in transit.



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › **Whether the property constitutes finished goods.**
Under § 48-5-48.2(a)(2), “[f]inished goods” includes “goods, wares, and merchandise of every character and kind but shall not include unrecovered, unextracted, or unsevered natural resources or raw materials or goods in the process of manufacture or production or the stock in trade of a retailer.”
- › The Board argues that this property does not consist of “finished goods” because it is “**stock in trade of a retailer.**”



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › The Board contends that this property is “**stock in trade of a retailer**” because it was “held by one in the business of making sales of such goods at retail in this [S]tate,” i.e., held by NCR at its warehouse.
- › **Appeals Court of Georgia decision:**
- › It is not “stock in trade of a retailer” because WalMart does not resell the self-checkout component parts either from the warehouse where they are stored in Georgia or once they are shipped to the out-of-state stores.
- › → Therefore, they are “finished goods.”



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › **Whether the property is inventory.**
 - The Board – argues it's equipment, not inventory.
 - Neither term is defined in the statute.
 - Appeals Court previously has rejected a narrow definition of “inventory.”
 - MerriamWebster Dictionary - defines inventory as “a list of goods on hand” or “a quantity of goods or materials on hand.” – broad definition.



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › **Appeals Court of Georgia's conclusion:**
- › WalMart paid ad valorem taxes on the property at the NCR warehouse destined to be installed at WalMart stores in this State, and the lower court properly determined that the freeport exemption applied to the property held for fewer than 12 months and destined to be used by WalMart stores outside this State.
- › **Affirms the grant of summary judgment to WalMart.**



Fayette County Bd. Of Tax Assessors v. WalMart Stores, Inc.

- › **Georgia Supreme Court denied the petition for certiorari on Feb. 1, 2021.**



Questions?